

Message Text

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ORIGIN L-03

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DRAFTED BY L/EA:EVERVILLE:L:GHALDRICH:PAW

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D:DWOOD(SUBS)

EA:RHMILLER

S/S - MR. SEBASTIAN

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FM SECSTATE WASHDC

TO AMEMBASSY MANILA IMMEDIATE

INFO AMCONSUL SYDNEY IMMEDIATE

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TODEP 43

E.O. 11652: GDS

TAGS: OVIP (ROBINSON, CHARLES W.)

SUBJECT: VISIT OF DEPSEC ROBINSON: BRIEFING PAPER - U.S.

OBLIGATIONS UNDER U.S.-RP MUTUAL DEFENSE TREATY

REF: MANILA 11494

1. WE WISH TO CLARIFY TWO POINTS RAISED IN YOUR DISCUSSION REFTEL CONCERNING U.S. OBLIGATIONS UNDER NORTH ATLANTIC TREATY AND EXECUTIVE AUTHORITY IN RELATION TO WAR POWERS RESOLUTION.

2. IN CONNECTION WITH NORTH ATLANTIC TREATY, WE CALL TO YOUR ATTENTION FIRST SENTENCE OF ARTICLE 11 OF TREATY WHICH PROVIDES "THIS TREATY SHALL BE RATIFIED AND ITS PROVISIONS CARRIED OUT BY THE PARTIES IN ACCORDANCE WITH THEIR RESPECTIVE CONSTITUTIONAL PROCESSES." THIS

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PROVISION APPLIES TO ARTICLE 5 AS EFFECTIVELY AS IF IT

WERE STATED IN THAT ARTICLE.

3. RE SECTION 2(C) OF WAR POWERS RESOLUTION DISCUSSED
PARA 10 REFTTEL, EXECUTIVE BRANCH DOES NOT REPEAT NOT
ACCEPT THAT SECTION AS A CONSTITUTIONALLY EFFECTIVE OR
ACCURATE STATEMENT OF THE PRESIDENT'S CONSTITUTIONAL
POWER AS COMMANDER-IN-CHIEF. WE DO NOT BELIEVE THAT THIS
WAS THE INTENT OF THE LEGISLATION OR THAT, EVEN IT IT HAD
BEEN INTENDED TO RESTRICT THE CONSTITUTIONAL POWERS OF
THE PRESIDENT, IT COULD CONSTITUTIONALLY DO SO. IN THIS
CONNECTION, NOTE THAT SECTION 8(D) OF THE WAR POWERS
RESOLUTION PROVIDES THAT: "NOTHING IN THIS JOINT
RESOLUTION - (1) IS INTENDED TO ALTER THE CONSTITUTIONAL
AUTHORITY OF THE CONGRESS OR OF THE PRESIDENT, OR THE
PROVISIONS OF EXISTING TREATIES..."

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